

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 7, 2004. In order to advance prosecution of this case, Applicants amend Claims 1, 3, 7, 10, 14, 18, 22 and 23. Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

The Office Action rejects Claims 14-23 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. Applicants respectfully traverse these rejections for the reasons stated below.

The Office Action contends that the limitation “a number of samples greater than one and equal to the second data transfer rate divided by the first data transfer rate” is vague and indefinite “since the second data transfer rate, i.e. 32 kbps of the receiver 40 in Fig. 3 is smaller than the first data transfer rate, i.e. 64 kbps.” Applicants respectfully disagree.

As an initial matter, Applicants note that the Office Action has read limitations into the claims that simply do not exist. For example, Claims 14, 17-19 and 21-23 do not define the magnitude of the first and second data transfer rates. Therefore, any rejection that is based upon the contention that the first data transfer rate must be sixty-four kbps and the second data transfer rate must be thirty-two kbps is entirely improper. Moreover, Claims 15 and 20 define the second data transfer rate but do not define the first data transfer rate, and Claim 16 defines the second data transfer rate but does not define the first data transfer rate. For at least these reasons, Applicants respectfully traverse the rejection of Claims 14-23 under 35 U.S.C. § 112, second paragraph. Applicants have amended Claims 14, 18, 22 and 23, and respectfully contend that Claims 14, 18, 22, and 23 are fully compliant with 35 U.S.C. § 112, second paragraph.

Section 103 Rejections

The Office Action rejects Claims 1-23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,896,374 issued to Okumura et al. ("*Okumura*"). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 1 is directed to a method of transmitting data that includes receiving data at a first data transfer rate. The data is buffered into a plurality of sequential frames, the frames are arranged into a byte of data, and the second data transfer rate divided by the first data transfer rate is determined. The byte of data is repetitively transmitted a number of times equal to the second data transfer rate divided by the first data transfer rate. *Okumura* does not disclose, teach or suggest each of these limitations.

For example, in accordance with Claim 1, the second data transfer rate divided by the first data transfer rate is determined, and the byte of data of is repetitively transmitted a number of times equal to the second data transfer rate divided by the first data transfer rate. *Okumura* teaches that a "predetermined number of bits can be repeated K times (twice in FIG. 13.) as a set." See *Okumura*, Column 19, lines 34-36. However, the number K is not based upon the first transfer or the second transfer rate as required by Claim 1. Instead, the number K is a predetermined positive integer that must satisfy the requirement that "the number of bits (the total bits of the error detection code and the data sequence) per frame is equal to or less than 1/K of the maximum bits of the frame." See *Okumura*, Column 18, lines 6-14.

According to the Office Action, the first transmission rate of Claim 1 is disclosed by the "low transmission rate received at input of a repeater 121." See *Office Action*, Page 3, ¶ 4. However *Okumura* doesn't disclose what value the first transmission rate is, and it indicates that the rate is variable. Moreover, the value of the "low transmission rate" is not used to the value of K.

According to the Office Action, the second data transfer rate of Claim 1 is disclosed by “the maximum bit of the frame shown in FIG. 13C.” *See Office Action*, Page 4. Applicants note that a number of bits is not equal to “a data transfer rate.”

Finally, the Office Action contends that the “number of times (integer K)” is determined by dividing the second data transfer rate (which the Office Action contends is equal to a number of bits) by “a low transmission rate.” *See Office Action*, Page 4. The Office Action does not disclose precisely how a number of bits can be divided by a “low transmission rate” to obtain a whole integer K, and nor does *Okumura*.

Also, the Office Action readily admits that *Okumura* fails to disclose “buffering the date,” “arranging the frames into a byte of date,” and “wherein the byte is repetitively transmitted a number of times as recited in the claim.” *Id.* The Office Action alleges that each of these limitations are “well known.” *Id.* Applicants respectfully disagree. Thus, to the extent that this rejection is maintained by the Examiner and based on “Official Notice,” “well-known art,” common knowledge, or other information within the Examiner's personal knowledge, Applicants respectfully request that the Examiner cite a reference in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. § 1.107.

Even assuming arguendo that the above limitations are “well known” (a point with which applicants disagree) the Office Action fails to provide any motivation to combine these limitations with *Okumura*. According to the Office Action, the motivation would have been to “enable the transmitter shown in Figure 11A to temporarily store, retrieve, arrange, and repeat data in a form of a standard byte or data.” *See Office Action*, Page 4. However, *Okumura* is directed to an error correction technique in which “frames” are repeated when an error is detected. *See Okumura*, Abstract, and Figure 13C. Thus, *Okumura* would be entirely inoperable for its intended purpose, if each of the above limitations were combined with the teachings of *Okumura*.

For at least these reasons, Applicants respectfully contend that Claim 1 is patentably distinguishable from *Okumura*. Claims 2-6 each depend, either directly or indirectly, from Claim 1. Therefore, Applicants respectfully contend that Claims 2-6 are each patentably distinguishable from *Okumura* for example, for the same reasons discussed above with regard to Claim 1.

Claim 7 is directed to a system that includes a processor being operable to determine a second data transfer rate divided by the first data transfer rate, and a transmitter operable to transmit a byte of data an integer number of times greater than one and equal to a second data transfer rate divided by a first data transfer rate. *Okumura* does not disclose, teach or suggest these limitations. For example, as discussed above with regard to Claim 1, *Okumura* does not disclose, teach or suggest determining a second data transfer rate divided by a first data transfer rate. For at least these reasons, Applicants respectfully submit that Claim 7 is patentably distinguishable from *Okumura*.

Moreover, each of Claims 14, 18, 22 and 23 each include limitations that are related to determining a data transfer rate divided by a different data transfer rate. Thus, Applicants respectfully contend that each of Claims 14, 18, 22 and 23 are patentably distinguishable from *Okumura* for example, for the same reasons discussed above with regard to Claim 7.

Claims 8-13, 15-17, and 19-21 each depend, either directly or indirectly, from Claims 7, 14, or 18. Therefore, Applicants respectfully submit that Claims 8-13, 15-17, and 19-21 are each patentably distinguishable from *Okumura* for example, for the same reasons discussed above with regard to their respective base claims.

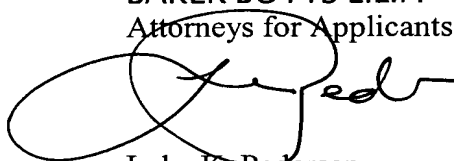
Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stand ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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